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COMMITTEE ON URBAN AFFAIRS

February 15, 2005

LB 479, 528, 626, 698, LR 2CA, LB 302

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 15, 2005, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 479, LB 528, LB 626, LB 698, LR 2CA, and LB 302. Senator present: Mike Friend, Chairperson; Matt Connealy, Vice Chairperson; Abbie Cornett; Ray Janssen; and DiAnna Schimek. Senators absent: Jeanne Combs and David Landis.

SENATOR FRIEND: Welcome everyone to the Urban Affairs Committee. My name is Mike Friend; I'm from Omaha. And let me introduce the members of the committee real quick. A lot of the committee members will be coming and going. Don't take offense to that. Some of them have bills in other committees, so they're going to be up and about and they don't ask permission. They just go, so, and they don't have to. To my right, Senator Matt Connealy is the Vice Chairman of the Committee; he is from Decatur. Bill Stadtwald, committee counsel; and Beth Dinneen, committee clerk; and DiAnna Schimek, Senator DiAnna Schimek from Lincoln. Senator Cornett and Senator Janssen will be joining us shortly. And I guess I just wanted to let you know that we could, if we could silence all the cell phones and the pagers, we would appreciate that. If you want to testify on a bill, move, we've kind of an on-deck chair and if you could move forward and fill out a green sheet, place it in the box up on the desk, we would appreciate that, as well. If you don't wish to testify but you would like your name entered into our official record as being present, please raise your hand and we can get you a sheet to do so, to sign in and signify that. And please, when you begin your testimony, if you would state your name and spell it for the record so the transcribers can get it correct. And if you have any handout material, please hand it, or put it off to the side, and alert the pages and they will distribute that appropriately. Page, I should say. And our page is, Brad's been our page since the beginning and he's hanging in there. We'll continue to work with him. He's a good man. And please, no vocal display of support. I don't think we'll have any problem with that today. Last week we had probably as close as we're going to come to issues of that nature. And I would say, with that we can get started with the first bill, LB 479, and Senator Nancy Thompson from Papillion.

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LB 479

LB 479

SENATOR THOMPSON: (Exhibits 1 and 2) Thank you, Senator Friend, members of the committee. I have two handouts. One is a brief outline of the bill, which I will go over. And also there is a letter from the city of Gering in support of the bill. I bring this bill on behalf of La Vista and their city administrator will be speaking to it and would be happy to answer any questions. But this impacts cities of a certain size, and I'll get into the details of that. They would like to be able to expand the purposes for which they can use their local option municipal economic development funds. We believe there probably is some confusion around the state already on this issue, and I think this would clarify it and make it clearer. In 1991, the Local Option Municipal Economic Development Act was passed to permit cities to commit local sales tax proceeds for the benefit of private businesses. And in the act, it lists the number of areas, and you can see from the bullets on this sheet what they include, and that's current statute. In cities of the first and second class and villages, a business can qualify to constructs or rehabilitations housing. Currently, retail trade businesses qualify in cities with a population between 2,500 and 10,000, with limits on how much cities can provide to these businesses as part of their total program. All other businesses qualify in cities with a population of 2,500 or less. This bill would allow retail trade businesses to qualify in cities that have a population between 2,500 and 100,000. So essentially we're just changing one word, I believe, two words in the bill, so that the cities of the next tier would have the same ability as those in the tier just, I hate to say below, but the smaller population cities. And there are some special circumstances happening in some of the cities closer to the metropolitan area that this impacts, but I would like to probably have Cara Pavlicek who is going to testify on behalf of La Vista be able to talk to you about why they feel this is important. But I would be happy to answer any questions that you may have.

SENATOR FRIEND: Any questions for Senator Thompson? Seeing none, thanks.

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LB 479

SENATOR THOMPSON: Thank you.

SENATOR FRIEND: Proponents of LB 479, please?

CARA PAVLICEK: (Exhibit 3) Senator Friend and members of the committee, my name is Cara Pavlicek, C-a-r-a P-a-v-l-i-c-e-k. I apologize for my voice today. I'm the city administrator of the city of La Vista, Nebraska, as Senator Thompson said. And the mayor and city council have asked me to address you today to voice their support for LB 479. As Senator Thompson said, following a constitutional amendment by the voters of Nebraska in 1990, the Legislature and actually this committee and several of you here, enacted LB 840 in 1991, which has had subsequent amendments but really has been the foundation for cities going to their voters with a proposed economic development plan, and if the voters so authorize, it has allowed mayors and city council to use local sources of revenue, specifically sales and property tax, for economic development activities. And generally, those activities really fall along for the manufacturing sector, and I think traditional economic development programs. In 1991, though, when the Legislature enacted LB 840, they did see the benefit of allowing retail incentives for those communities 2,500 to 10,000 population. And just from going back and reading the record, I think it was acknowledgement of the unique role that retail can play to the vitality of a community, and particularly in some of your stand-alone communities in Nebraska. In the decade since LB 840 was enacted, 30-plus cities in the state have had their voters authorize the mayor and city councils to do local option economic development. La Vista is one of those cities. Why we have, I guess, gone to Senator Thompson or asking the Legislature to at least consider allowing all first-class cities to use retail, is that we really see the landscape has changed. A couple things have happened. Cities are really moving into redevelopment now as our communities age. It's not okay to allow the central core part of the city to really deteriorate if that's where your downtown or your typical business district is. And so redevelopment is becoming an activity that we see La Vista needing to address in the next few years. And additionally, I think Internet sales, the ongoing federal ban on Internet sales taxation has really changed what's happening to the retailer at the local level. And so we're seeing more that those folks may

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LB 479, 528

need to participate in some type of sales tax rebate program or process. And so we see amending this bill as allowing first-class cities in the state to really have that same advantage that second-class cities currently have, just again to kind of protect and ensure the vitality of their communities. And with that I'd just be happy to answer any questions that you have.

SENATOR FRIEND: Thank you. Any questions from the committee for Ms. Pavlicek? Seeing none, thanks for your testimony.

CARA PAVLICEK: All right, thank you very much.

SENATOR FRIEND: Are there any more proponents of LB 479, in favor? Is there any opposition? Any neutral testimony? Senator Thompson waives closing and that apparently closes the hearing on LB 479. And Senator Connealy, if you are ready, we will move to LB 528.

LB 528

SENATOR CONNEALY: Thank you, Senator Friend, and members. I am Matt Connealy. I represent the 16 District and I'm here to open on LB 528. LB 528 modifies the procedure for filing the monthly treasurer's report in cities of the first and second class and villages. For all class of cities and villages, the bill extends the due date of the monthly treasurer's report from ten to 20 days and gives the governing body discretion in establishing the date for the report. Often, ten days is not enough to receive the necessary bank documents back in order to complete the report. For cities of the first and second class and villages, LB 528 provides that the mayor, with the consent of the council, or in cases of the village with the chairperson, with the consent of the trustees, may consider the failure to issue a timely report as cause for removal of the treasurer from office. Current law provides that by resolution of the mayor and the council, or chairpersons and trustees, the position may be declared vacant or cause the removal from office. The new language more accurately reflects the procedure for removing an appointed official from office. LB 528 updates the procedure for filing monthly reports and gives the governing bodies more

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LB 528

discretion. It removes a drastic, mandatory removal that's in law now. I urge your support of this bill.

SENATOR FRIEND: Thank you, Senator. Any questions for Senator Conneally on the bill? Seeing none, we'll move to proponents of LB 528, those in favor.

MARGARET SHELTON: Senator Friend and committee, I thank you for allowing me to address you. My name is Margaret Sheldon. My last name is S-h-e-l-d-o-n. I've been the administrator clerk/treasurer at the village of Hemingford for the past 18 years, and have noticed that this needs changed for a really long time. Most cities, and I've talked to my peers, first-class down to villages, most of them meet on the first and third, either Tuesday or Thursday of the month. So very often our first meeting is on the first or second day of the month. Because we had the 10th as a deadline to deliver that report, you would have had to have it to them on the first or second day of the month, which with the new banking situations, it is no longer a possibility if you want to give a reconciled report. And my fear is, seeing new people come into my position that will be forced into giving unreconciled reports which always leaves open the possibility of error. And for all of us who serve the public, know that that could amount to some real drastic actions that wouldn't be a good thing for them. So in most of them I've talked to, most elected officials are already making exceptions and they don't have law backing that exception being made. So I'm asking that you just move it 20 days. That allows us to get bank statements to give a good reconciled report to our citizens. Do you have any questions?

SENATOR FRIEND: Thank you. Any...? Senator Schimek, question.

SENATOR SCHIMEK: Yes, I just am curious. Did you come clear from Hemingford just to testify on this bill?

MARGARET SHELTON: Actually, I was at the League conference...

SENATOR SCHIMEK: Oh, good. Okay.

MARGARET SHELTON: ...and I was very thrilled that your

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LB 528

committee hearing fell right in connection with that, so.

SENATOR SCHIMEK: Excellent.

SENATOR FRIEND: With yesterday's, you were, you testified in General Affairs yesterday, too, right?

MARGARET SHELDON: Yes, I did.

SENATOR FRIEND: Yeah, so double whammy. Well, thank you. Any further questions for Ms. Sheldon? Seeing none, thanks for being here.

GARY KRUMLAND: Senator Friend and members of the committee, my name is Gary Krumland, spelled K-r-u-m-l-a-n-d, appearing in support of LB 528. And I want to thank Senator Connealy for introducing the bill. As you've heard, this has to do with monthly treasurer's reports. The law requires that every month the treasurer file a statement of all receipts and disbursements, together with all the warrants that were redeemed. But there is some language in the statute that was referred to by both the Senator and by Peggy. If you look on page 4 of the bill, lines 5 through 9, that current law that's being stricken, it says, if the treasurer...and this is for second-class cities and villages...if the treasurer neglects or fails for the space of ten days from the end of the month to render his account, his office shall be declared vacant. So even if the city council or village board says, don't worry about it; give it to us by the 15th, or don't... The law says that position is vacant. There is no wiggle room. So what we're trying to do with LB 528 is to still have dates in there, still give the governing body discretion on when this is in, but take away the drastic thing about declaring the office vacant if somebody is late with the report. There are several situations where city council or village board has said, don't give us the report by the 10th. So that puts the treasurer in a dilemma that technically if they give it later than that, their office is vacant. We do have language in here, and it's a little different for each of the classes of cities so that failure to render the report in a timely manner on the due date still will be cause for removal because it is important that the elected officials get this information in a timely manner. But it reflects the authority of the various classes of cities and villages to remove people. For

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LB 528, 626

example, first-class cities, a mayor may remove an employee term of years, for cause, with the consent of the council. In a second-class city, the mayor may remove an official who is serving a term of years without the consent of the council, but for cause. And then the village board, it's the chairperson with the advice and consent of the trustees. So all of those different standards just reflect other statutes on removal of an officer for cause. I guess for that reason, we would ask that you advance LB 528.

SENATOR FRIEND: Thank you. Any questions for Mr. Krumland from the committee? Seeing none, thanks for your testimony. Any more proponents of LB 528? Any opposition? Any opponents to LB 528? Neutral testimony? Senator Connealy to close.

SENATOR CONNEALY: You covered it.

SENATOR FRIEND: Senator Connealy waives closing. That would conclude the hearing on LB 528. And Senator Combs is here with LB 626.

LB 626

SENATOR COMBS: Good afternoon, Chairman Friend, fellow members of our committee, my name is Jeanne Combs, J-e-a-n-n-e C-o-m-b-s, and I represent the 32nd District. LB 626 changes requirements that certain committees or board members be freeholders of a city or village. The new provision simply requires that these members be residents of the city or village. The committees or boards include: the Board of Park Commissioners; the Board of Public Trust; the Board of Park and Recreations Commissioners; and the committee appointed to appraise to the damages caused by change of street or alley grade or grading. The simple problem is that our current law is limiting the participation of community members on these boards or committees based upon owning title in realty. If you are a resident but choose to rent instead of owning your own property, you are technically excluded from being able to contribute to your community by serving on these boards. Passing LB 626 will remedy this problem and I simply ask you to advance the bill to General File. Thank you, and I'd be happy to answer any questions.

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LB 626

SENATOR FRIEND: Thank you, Senator Combs. Any questions from the committee?

SENATOR COMBS: Yes.

SENATOR FRIEND: Senator Schimek.

SENATOR SCHIMEK: I am rather shocked that we still have that provision in statute.

SENATOR COMBS: Yeah, well...

SENATOR SCHIMEK: I wonder if that exists anywhere else in statute?

SENATOR COMBS: I don't know. Leave it to Lynn Rex to find it.

SENATOR SCHIMEK: Thank you.

SENATOR FRIEND: Any more questions? Seeing none, thank you.

SENATOR COMBS: Okay, thank you. And I will waive closing. Thank you.

SENATOR FRIEND: You bet. Proponents? First proponent anyway, LB 626.

GARY KRUMLAND: (Exhibit 4) Senator Friend, members of the committee, my name is Gary Krumland, representing...it's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB 626. This bill was brought to us by the city attorney of Auburn who sent in a letter that's being passed out right now. And he asked, this summer, why you had to own property to serve on the park board for a city of the second class. And we did a search of the statutes, and the term freeholder is used quite a bit. And one of the things you're passing out is a definition from Black's Dictionary, law dictionary, that defines freeholder as one having title to realty. And we did a search of the statutes. It's used quite a bit. We found four situations, though, where you had to be a freeholder to serve on a committee, and Senator Combs

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LB 626, 698

outlined those committees. But one has to do with appraising damages when you change the grade of a

street. To serve on a the park board for either a city of the first class or a city of the second class or village, you have to be a landholder. And also, cities of the second class and villages can create boards of trust that basically manage endowments to the city, and there it also used the term freeholder. And we could not find any reason why someone who has to own property to serve in those function, so we think the law should be updated and people should just have to be residents; they should not have to own property. We did find there are other situations where the term freeholder is used that we did not address and maybe they need additional study. But it usually is a situation where you require a certain number of freeholders to sign a petition to do something or another. So it may or may not be appropriate in those situations, to own property if you want to have a sewer project done or something. But it's something that probably needs further study, but we picked the ones where we clearly felt it was inappropriate to require someone to own property to serve on these boards. And so that's... I'll answer questions.

SENATOR FRIEND: Thank you. Thank you. Any questions for Mr. Krumland? Seeing none, thanks.

GARY KRUMLAND: Thank you.

SENATOR FRIEND: Any more proponents in support? Any opponents? Any opposition? Anyone neutral on the bill? And Senator Combs waives closing. That will close the hearing. That's probably our record for today. That was a short one. We move...and I think we need to probably flag down Senator Pam Brown for LB 698. We can stand at ease, I guess, until we can move forward.

AT EASE

SENATOR FRIEND: Okay, good afternoon, Senator Brown. We are ready to open the hearing on LB 698, Senator Brown.

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LB 698

SENATOR BROWN: Thank you, Mr. Chairman and members of the committee. My name is Pam Brown. I represent District 6 in Omaha and I'm here to introduce LB 698. LB 698 is a bill that clarifies for the purpose of public buildings, commissions, the process for election, and also...which currently the language does not make it clear that the election would be with the majority of the members, and so it's unclear whether it would need to be a unanimous vote. And so this clarifies that it would be a majority of the members and also puts in place a per diem for the member of the board that is not an elected official. And we have some issues; Mr. Stadtwald has brought up some issues in terms of the language, and so I will be coming with an amendment as soon as we can get it drafted to clarify that piece of it. But the per diem would only apply to the member who is not an elected official. And with that, I would be glad to take questions.

SENATOR FRIEND: Thank you. Any questions for Senator Brown? Seeing none, thanks for...

SENATOR BROWN: Thank you. I'm sorry I was a bit late. I was engaging with a testifier in another committee, so.

SENATOR FRIEND: That's just fine.

SENATOR BROWN: The former Speaker of the Legislature, who I had decided that his answer did not scare me out of the...

SENATOR FRIEND: We probably know him. (Laugh) Maybe I...

SENATOR BROWN: No, I think you do know him. Thank you.

SENATOR FRIEND: Thank you. Are there proponents, LB 698, first, please?

PAUL COHEN: Senator Friend, members of the committee, my name is Paul Cohen, and it's C-o-h-e-n. I'm the administrator for the Omaha-Douglas Public Building Commission. We thank Senator Brown for introducing this bill. It does just exactly what the Senator described, with one other thing. It also adds a residency requirement. There's no language in the current statute that would prohibit somebody from Council Bluffs being on the Omaha-Douglas Public Building Commission, and we thought it

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LB 698

would be important that they be from Douglas County. The issue relative to the per diem for the fifth member of the at-large member of the nonelected official we think is important because we are a government entity. Every other member of the commission sits, or is paid by virtue of their election position, and this is a token way, not a large way, but a token way of saying to the at-large member, we value your service throughout the month, not just at meetings, but meetings is the easiest way to pay you. And we would encourage the committee to advance this bill. I'd be happy to answer any questions.

SENATOR FRIEND: Thank you, Mr. Cohen. Any questions from the committee? Seeing none, thanks for coming down.

PAUL COHEN: Thank you.

SENATOR FRIEND: Any more proponents, supporters?

DONALD KILLEEN: Senator Friend and members of the committee, my name is Don Killeen, K-i-l-l-e-e-n. I'm the administrator of the Lincoln/Lancaster County Public Building Commission, here to voice our support for the bill. And as was previously mentioned, the items, I think, clarify a number of items in the current statutes. The only concern that the Lincoln/Lancaster County Public Building Commission had was that the compensation issue be couched in terms of "may" be paid, rather than "shall." And I understand that that is going to be changed in the amendment that Senator Brown mentioned. But with that, the Lincoln/Lancaster County Public Building Commission is definitely in support of the bill. I'd be happy to answer any questions.

SENATOR FRIEND: Thank you, Mr. Killeen. Any questions? Senator Schimek.

SENATOR SCHIMEK: Yes. Is there any chance in the future that this board might be composed of two members of the public bodies and three members of the public?

DONALD KILLEEN: I think that would require another change in the statute...

SENATOR SCHIMEK: Another change in the statute.

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LB 698, LR 2

DONALD KILLEEN: ...because it, I think that statute clearly says two from the county, two from the city, and a public member. But I think as Paul had mentioned, I think it's a little unclear as to some aspects of that public member, how it's chosen, et cetera.

SENATOR SCHIMEK: I guess I'm thinking about a staff comment here on our memos that we received. And it just suggests that maybe instead of specifying that the fifth member receive the compensation, a provision could be made that the specified compensation for any board member not otherwise serving on a governing board of the city or county might receive this compensation. It would be the same thing, but in a different way.

DONALD KILLEEN: Right. And I think from our Public Building Commission standpoint, the only concern was that it be "may" so they would have the option of not paying a compensation to that public member if they so chose. Just a concern that there are a lot of different boards and if they didn't want to be obligated to being paid a compensation.

SENATOR SCHIMEK: So you might pay that fifth member on one board, but not on another. Is that what you're saying?

DON KILLEEN: That was the concern of the Lincoln/Lancaster County Public Building Commission, that the wording being "may," allowing the commission to pay it if they so chose to, but not obligated to.

SENATOR SCHIMEK: Okay, thank you.

SENATOR FRIEND: Thank you. Any other questions for Mr. Killeen? Seeing none, thanks for your testimony. Are there any more proponents, LB 698? Are there any opponents? Anybody in opposition? Anybody from a neutral capacity? I think Senator Brown waived closing, so that would close the hearing on...unless...I don't see her over there, okay. Senator Brown waives closing and that will close the bill on LB 698. And we can open the hearing on LR 2CA. Welcome.

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LR 2

LAUREL MARSH: Good afternoon. My name is Laurel Marsh, spelled M-a-r-s-h, and I'm here on behalf of Senator David Landis who is the principal introducer of LR 2CA. LR 2CA is a proposed constitutional amendment designed to authorize the use of revenue bonds to develop property for use by not-for-profit enterprises. LR 2CA would authorize any county, city, or village to acquire, own, develop, and lease real and personal property for use by charitable, nonprofit organizations and to issue revenue bonds for the purpose of defraying the cost of acquiring and developing or financing such property by construction, purchase, or otherwise. This has been before the Unicameral in two other forms: LR 21CA, introduced by Senator Paul Hartnett in 1999; and LR 4CA, introduced by Senator Landis in 2001. It made the journey through the Legislature at that point in time but was rejected by the voters in 2002. However, we hold that it is still a good idea. If this were adopted, it would allow not-for-profit organizations access to capital at lower interest rates, so more of their dollars could go to the purposes for which they are organized. For instance, if a not-for-profit organization were to borrow \$2,000,000 over 20 years at an interest rate of 7.5 percent, versus an interest rate of 5.5 percent, if they were allowed the opportunity for the lower interest rate, they would save around \$576,000. And that's a substantial amount of money to anyone. So we ask you to advance this resolution to General File, and I stand ready to answer any questions should there be any.

SENATOR FRIEND: Thank you, Ms. Marsh. Any questions? Senator Schimek.

SENATOR SCHIMEK: Yeah, Laurel, can you tell me why this bill has a "hopscotching" kind of history of going from one committee to then another, and back again to the same one?

LAUREL MARSH: Boy, I'd be very popular if I could forecast which committee the Executive Committee might direct a bill towards.

SENATOR SCHIMEK: This is one we didn't challenge this year, and I didn't even, you know... Okay, thanks.

SENATOR FRIEND: Thank you. Any other questions? Seeing none, thanks.

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LR 2

LAUREL MARSH: Thank you.

SENATOR FRIEND: Proponents of LR 2CA, please.

BOB HALLSTROM: (Exhibit 5) Senator Friend and members of the Urban Affairs Committee, my name is Robert J. Hallstrom and I appear before you today as a registered lobbyist for the Nebraska Bankers Association in support of LR 2CA. The story and history of this particular constitutional amendment started in 1998 when the Nebraska Bankers Association was approached by directors of the Red Cross in what was then Norwest Bank regarding their interest in amending the Nebraska Industrial Development Bond Law. At that time, upon further research, we found out that it was not enough simply to amend the state statutes, but rather that we needed a constitutional amendment to be passed by the Legislature and approved by the voters in order to get this authorization into a state law. Our current Nebraska law authorizes cities or municipalities to issue bonds and lend the proceeds to private enterprises for only two particular undertakings: manufacturing projects, and other enterprises located in blighted areas of cities. So this constitutional amendment would provide a third option: to provide tax exempt financing through the issuance of municipal revenue bonds for the benefit of nonprofit enterprises. We believe that this will be beneficial to the entire state of Nebraska rural communities in terms of looking at nonprofit organizations and projects, including hospitals, nursing homes, ambulance service, private colleges, secondary schools, YMCAs, YWCAs, and we think that and would hope that the committee would act favorably upon this proposed constitutional amendment. I do have here today, since I am not at this point the technocrat on the legislation, Mr. Michael Olauson from Wells Fargo Bank out of Minneapolis, and Mr. Lauren Wismer who is a long-time bond counsel here in Nebraska. And they will follow me at some point in the testimony today to provide further information and clarification on the provisions. But I'd be happy to address any questions the committee might have.

SENATOR FRIEND: Thank you. Any questions? Senator Schimek.

SENATOR SCHIMEK: Yeah, Bob, I don't know. I see this

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LR 2

amendment fail 245,000 to 167,000. Why do you think that it should go back on the ballot and could possibly be passed again?

BOB HALLSTROM: Well, I think, Senator, the issue probably was, and I appreciate the question, there was not a great deal of money spent the first time around, and that may have been an error in judgment in terms of what needs to be done to pass a constitutional amendment. I think clearly in this case there was really no organized opposition to the constitutional amendment. We had a number of nonprofit organizations that had come out in support. With the limited funds that were expended, there was a minor or modest press effort to get the word out to newspapers and to the public. But I think probably just the longstanding notion that if people don't know a lot about an issue, they're bound to vote, no, is probably what did this particular measure in. Senator Landis has asked us and suggested, and we have agreed that if the committee does see fit to act favorably on this bill, that we are not going to push for its passage this year. But over the interim, we are going to come forward with the commitment from both the securities industry, the banking industry, the nonprofit organizations, to show the good faith and the commitment that we are going to do it a little bit differently this time, utilize the money to get the benefits and bestow the merits of the legislation, or the proposed constitutional amendment, so to speak, and get the word out there so we can get it adopted this time.

SENATOR SCHIMEK: I would think you would be able to do that with some ease because you are in every community in the state practically, so okay.

BOB HALLSTROM: Thank you, Senator.

SENATOR SCHIMEK: Thanks.

SENATOR FRIEND: Thank you. Mr. Hallstrom, could you spell your name for the record? I think I...

BOB HALLSTROM: Yes, I can.

SENATOR FRIEND: Thanks.

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BOB HALLSTROM: I can do that. H-a-l-l-s-t-r-o-m. Thanks for the softball you threw to me.

SENATOR FRIEND: You're welcome. Thanks for your testimony.

BOB HALLSTROM: Thank you, Senator.

SENATOR FRIEND: Next proponent?

AMY PRENDA: (Exhibit 6) Chairman Friend and members of the Urban Affairs Committee, my name is Amy Prenda; last name is spelled P-r-e-n-d-a. I'm the registered lobbyist for Nebraska Goodwill Association and we wanted to submit a letter in support of the passage of this bill. And if you have any questions, I will try to answer them.

SENATOR FRIEND: Thank you, Ms. Prenda. Any questions? Seeing none, thanks for your testimony. Any more proponents?

MICHAEL OLAUSON: Chairman Friend and members of the committee, my name is Michael Olauson. That's spelled O-l-a-u-s-o-n. I'm with Wells Fargo Brokerage Services, the public finance division, which is located in Minneapolis. We're an underwriting company that does the securities underwriting for most of Wells Fargo, and we do that in all the 23 traditional banking states, we call them, both in the Norwest footprint, as well as the new Wells Fargo footprint, which is further out to the west. I'm here to support the resolution, basically to give the charitable 501(c)(3)'s around the state the chance to access tax-exempt financing which is bestowed upon them, or the benefit is allowed by the Federal Tax Code. But because of what I would call a hole in the Nebraska statutes, some of those nonprofits are virtually left out. In my business, we do...most of the transactions I work with are from \$300,000 to \$3 million or \$4 million. We're not talking generally about those types of borrowers that, like at Creighton University, that borrows \$100 million at a whack. We're talking about a lot of nonprofits. And these are the nonprofits that are not involved in higher education, or I should say education, and not involved in healthcare, because those two type groupings of entities get to have...they have authorities on their own. They've got NIFA in the case of higher ed, and they've got the local county hospital authorities that issue for

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healthcare situations. But all the others are sort of left out. And those generally are smaller and their needs are smaller, but they just can't access tax-exempt...money that's based upon tax-exempt interest rates. The only way you can do it currently, as I understand it, is if the project involves blighted property. And that's sort of a loophole. In fact, we did financing for Goodwill Industries, who was just here, and we were able to do it because it was a warehouse. But if that had been a retail store, we couldn't have done it. They would have been left out. Some of the entities that would access this, that would benefit are YMCAs; Goodwills; museums; art institutes; various foundations; Salvation Army; Red Cross; food shelves, in general; the United Way, itself, would be able to borrow this way; day-care organization; Boys and Girls Clubs. We've done financings for all of those types of entities in all the other states we work in. I don't know of any other state where there are, where we call local issuances is prohibited. This is the only one that I know of and that we've worked in. One of the side benefits of this is, if you have local issuers, and this gets into some involved tax code, but local issuance would be generally bank qualified debt, which means the debt we're underwriting would be generally buyable. It would be attractive to local banks. And sometimes that means the local bank, and that may or may not be a Wells Fargo Bank, at any commercial bank, banks generally like to buy tax-exempt instruments, and this would allow them to buy local tax-exempt investments that would be bank qualified, which means from the tax code perspective they make economic sense to buy. If these were issuances by a large statewide authority, generally like a NIFA for example, or a NIFA, the debt would not be bank qualified. And so, therefore, banks would not be able to buy the debt or have the ability to buy the debt and enjoy economic benefit by doing that, and you take away one of the advantages, I think, of this situation where local banks can be involved. And sometimes it's a matter of those local banks have to be involved. They may be the only creditors out there who are willing to do this type of transaction. So I might underwrite the debt in the name of Wells Fargo, but we, as a brokerage company, we sell all our paper and we need to have investors. Those local banks are often very good investors to use in getting that debt placed. So that's, of course, an advantage to that local entity. And having local issuance would mean generally

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these are all going to bank qualified because they're small deals, they're small issue, or small towns and counties. And then you bring to bear that advantage in not using a statewide authority, which is another option if you wanted to set up an authority like a NIFA. Just as a matter of background, the Red Cross, we tried to finance their building back in 1997; I think Mr. Hallstrom referred to that. And that's what opened my eyes to this statute in Nebraska. I'm from Nebraska, originally, live in Minnesota, and I was not aware of the fact that when I went to propose to the Red Cross that we were going to do this tax-exempt, I found out...I believe it was Lauren Wismer, an attorney, bank counsel, said, well, they can't do that. I said, well, what's with all this? I mean, that doesn't make any sense. Well, they're not dealing with blighted property. Lincoln was not ready to call their property blighted. It was in a nice part of town I guess. They couldn't get tax-exempt financing. I was sort of stunned and that put me on this odyssey to get this changed, and that's where this came into play. Those are all my prepared remarks.

SENATOR FRIEND: Thank you. Any questions for Mr. Olauson? Seeing none...or, wait, excuse me. Senator Schimek.

SENATOR SCHIMEK: I want to ask him how long he's been in Minnesota because he does have a little tinge of Minnesota accent.

MICHAEL OLAUSON: Well, I was born in Omaha in 1950. I graduated here in 1972 from the business school, and I've been up there since about 1977.

SENATOR SCHIMEK: Somehow the way you say, oh, in some of those words.

MICHAEL OLAUSON: I'm told I say roof like a Nebraskan says roof, so...(laugh)...or rough (phonetic), I don't know.

SENATOR FRIEND: Rough. Yeah. Thanks for your testimony. More proponents?

LAUREN WISMER: Chairman Friend and members of the Urban Affairs Committee, my name is Lauren Wismer. I am at attorney with Gilmore and Bell. I have been practicing public finance law in the state of Nebraska for almost

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25 years. And as Michael has indicated to you, there is a problem with financing nonprofit corporations on a tax exempt basis in the state of Nebraska, unless it happens to be an educational institution or a healthcare institution. I am aware of at least two instances in which financings were able to be done because the communities were willing or had declared areas blighted. And one of those occurred in Lincoln with the Lincoln Action Program. Initially, they approached us about doing financing. They are not an educational institution, they are not a healthcare organization. But the city council was willing to declare the site on which they wanted to locate their new property as blighted and substandard. And so, on that basis, we were able to finance it on a tax exempt basis. Similarly, I think a number of years ago in Omaha, the Joslyn Art Museum was able to finance some improvements because they are located in a blighted and substandard area. These are just a couple of examples of the kinds of organizations which, unless they are located in a blighted area, do not have access to tax-exempt financing. This constitutional amendment would allow the Legislature, then, to adopt implementing legislation that would specify the kinds of nonprofit organizations, which then would have access through the counties and cities and villages in the state of Nebraska for that kind of financing. It's an amendment to the existing Industrial Development Bond Statutes, which have been in Nebraska statutes for over 40 years. And I think that concludes anything I want to say. If you have any questions, I will be happy to try and answer them for you.

SENATOR FRIEND: Thank you. Can you spell your name for the record, Mr. Wismer? Thanks.

LAUREN WISMER: Yes, W-i-s-m-e-r.

SENATOR FRIEND: Thank you. Any questions for Mr. Wismer? I had one and maybe some others will think of some. We had already mentioned that the voters had kind of got a bite of this apple. I mean, are you comfortable with the idea? When I've talked to people about, it doesn't matter what, I mean, in relation to these type of subjects, TIFF financing, stuff like that, their eyes glaze over. The problem, I guess, that I'm anticipating and I would imagine that you folks have too, is their eyes are going to glaze over again.

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And I'm a little worried when, frankly, I may have voted no for this. I don't remember. But I mean, this, had I probably researched it a little bit and got some of that information, had my eyes not glazed over, I might have voted yes. I mean, what kind of...can you be more specific about maybe some of the plans that you think are out there or something that could change the tide?

LAUREN WISMER: I'm not sure I'm qualified to answer that question. I focus on the legal aspects rather than political aspects. And I think maybe...

SENATOR FRIEND: Fair enough, yeah.

LAUREN WISMER: ...perhaps Mr. Hallstrom or Mr. Olauson might be in a better position than I to...

SENATOR FRIEND: Yeah, I'll grill Mr. Hallstrom later on that one, sure. It doesn't have to be on the record either necessarily. Anymore...any other questions for Mr. Wismer? Seeing none, thanks. Appreciate it.

LAUREN WISMER: Thank you very much.

SENATOR FRIEND: Any more proponents? Any opponents? Any opponents to to LR 2CA? Any neutral testimony?

RANDY JONES: Good afternoon, Mr. Chairman and Senators. My name is Randy Jones and I'm the executive director for the Lancaster County Chapter of the Red Cross here in Lincoln. And I come to you in neutral testimony because I did not allow myself enough time to get approval from our national office on giving a proponent testimony. But I would like, you'll see that my comments are certainly, are pro-bill. In 1997, the Red Cross here in Lincoln built a \$1.2 million service center located in the West Gate Industrial Park in west Lincoln. And we were particularly challenged in seeking cost-effective and efficient means to pay for the facility and finance the facility. We were, at that time, in a position of having to build prior to funds being raised. We did approach Norwest Bank who looked into the legislation and determined we could not seek tax-exempt financing and suggested that if we could get the area considered blighted, that it might qualify under that type of financing. And at that time, we did not feel it was in

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the city's best interest to promote that being a blighted area. Since this legislation was not in place at the time, our financing resulted in interest payments of over \$130,000 over a five-year period. And this, of course, is a significant amount to us as a small, local nonprofit organization. Had we not received the generosity of a bequest within that five-year period of time, of course, the interest rates would have been nearly double over the period of the loan. These funds could have been used to support the many public services that Red Cross is most known for in our communities--community services such as response to disasters, assistance to fire departments and fire victims, preparedness education such as CPR, aquatics, and other community services. In today's economy and the challenges of raising the donated dollar, we, of course, would like to see those dollars focused on operations, providing the services that donors intend, and in the investment of new capital where we can build our capacities to serve more people in the communities. That's all of my testimony.

SENATOR FRIEND: Thank you.

RANDY JONES: Thank you.

SENATOR FRIEND: I'm thinking J-o-n-e-s?

RANDY JONES: J-o-n-e-s, yes.

SENATOR FRIEND: Thank you. Any questions for Mr. Jones? Thanks for your testimony. And Ms. Marsh, unless we have any other neutral testimony... Ms. Marsh waives closing for Senator Landis. And that will close the hearing on LR 2CA. And I believe Senator Price is available now for LB 302. Welcome.

LB 302

SENATOR PRICE: (Exhibit 7) Good afternoon, Senator Friend and members of the committee. For the record, I am Senator Marian Price. And this is the first time I have ever appeared in front of the Urban Affairs Committee.

SENATOR FRIEND: You don't know what you've been missing.

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SENATOR PRICE: That's right, that's right. For the record, my name is spelled M-a-r-i-a-n, last name P-r-i-c-e, and I represent the 26th Legislative District, and I'm the principal introducer of LB 302. LB 302 gives cities of the primary class the authority to assess all benefited properties the cost of planting, maintaining, protecting, and removing of public city trees for the general welfare, safety, and benefit of the public. I introduced LB 302 at the request of the city of Lincoln. Lincoln's city charter gives the city the authority to enact a special assessment for city trees. This provision dates back to 1919. It is has been long-believed that the city needed state authority to enact this provision in its charter. LB 302 simply gives cities the authority, underlined authority, to provide an exclusive funding source for trees through a special assessment. Any details of this assessment would be worked out at the city council level. I have some great testifiers who will follow, and they will provide you with the essential details on this bill. I thank you for your time and I will close when the testimony concludes.

SENATOR FRIEND: Thank you, Senator Price. Any questions from the committee? Seeing none, thanks.

SENATOR PRICE: Thank you.

SENATOR FRIEND: Start with proponents of LB 302, please, those in favor?

LYNN JOHNSON: Good afternoon, Senators, and members of the committee. I do want to thank Senator Price for introduction of LB 302. My name is Lynn Johnson. I'm the director of the Parks and Recreation Department with the city of Lincoln. My last name is spelled J-o-h-n-s-o-n. As Senator Price indicated, the charter of the city of Lincoln does allow for special benefit assessments for planting, maintenance, and removal of public trees. And this is a request of consideration to establish state language that would support that provision of the charter. As Senator Price indicated, we are not requesting the ability to implement at this point because, obviously, that's something the city council would have to do. But really we're looking to make sure that this is a tool that is available to the city so that we could provide a funding source for maintenance of public trees in the future. I'm going to

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introduce Steve Schwab--Steve is the city forester for the city of Lincoln--and let Steve speak more directly to the special benefit assessment for maintenance of public trees, and then either one of us are certainly available for questions. And we do appreciate the opportunity to be here this afternoon.

SENATOR FRIEND: Thank you, Mr. Johnson. Any... Next proponent?

STEVE SCHWAB: Good afternoon. My name is Steve Schwab. I'm the city forester for the city of Lincoln Parks and Recreation Department. I'd like to thank the committee the opportunity to speak on behalf of LB 302.

SENATOR FRIEND: Thanks, Mr. Schwab. Could you spell your name, please?

STEVE SCHWAB: S-c-h-w-a-b.

SENATOR FRIEND: Thank you, sir.

STEVE SCHWAB: LB 302 would, as Mr. Johnson has stated, would allow the city to enact that portion of its charter which has been in existence since 1919, and would allow the city council to assess the cost of maintaining and planting trees on the public property of the city of Lincoln. LB 302 would also provide consistent and dedicated municipal funding used exclusively for the proactive management of Lincoln's public tree infrastructure, which would be for the benefit, welfare, and safety of the citizens and the public. I would like to point out that trees are unique as far as a component of the city's infrastructure. With proper, systematic maintenance, trees appreciate in value, which no other component of the city's infrastructure really does. In other words, as they grow in size, so do their benefits. We have provided a handout for the committee. There's been extensive research done on the national level--U.S. Forest Service, the Center for Urban Forest Research--and this research points conclusively that trees do provide monetary value and benefits, both environmentally and economically, and that those benefits are communitywide and are a benefit and a value to all that reside within a community. And with that, if there are any questions, I'd be happy to address those.

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SENATOR FRIEND: Thank you. Any questions? Senator Schimek.

SENATOR SCHIMEK: Yes, I want to make sure that I understand this, and I've been furiously reading through the provisions of the bill here--the existing statutes. Does this authority that's granted by this give authority to do any taxing, anything of that nature? Does it not have to go through the city government for that to happen?

STEVE SCHWAB: It would have to go through the...

SENATOR SCHIMEK: It's not like a commission or something like that that's been established?

STEVE SCHWAB: No. It would have to go through the city council and it would be established by city ordinance with a hearing, three readings like any city ordinance, that would establish the assessment, the area that would be assessed. The second reading would involve a public hearing. Third hearing would be the actual vote by the city council on that ordinance.

SENATOR SCHIMEK: Okay, I just wanted to make sure. Thank you.

STEVE SCHWAB: Um-hum.

SENATOR FRIEND: Thank you. Any other questions for Mr. Schwab?

STEVE SCHWAB: Thank you.

SENATOR FRIEND: Seeing none, thank you. Any more proponents, proponents of LB 302? Any opponents? Anyone opposed to LB 302? Anyone wishing to testify in a neutral capacity?

LARRY RUTH: My name is Larry Ruth. It's spelled R-u-t-h, and I'm representing the Nebraska Association of Commercial Property Owners, and I appear in a neutral position today. If I were to appear in a personal position, it would be in favor of the bill. I like trees. I like trees a lot. However, I'm looking at it from the standpoint of the

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commercial property owners. And I'd like to comment today, not so much on ornamental trees and the specific authority of ornamental trees, but the process by which you're going through right now. We would be in favor of the specific authority that you're looking at right here for a specific type of special assessment or special taxation that you're authorizing the city to do. Now, we appeared in opposition to LB 75, which was just the opposite of what you're doing right now. LB 75 was passed, giving carte blanche authority to a city to have a special assessment, special taxation, for any purpose of public improvement. And I think the (inaudible) distinction is very apparent here. Here the folks in favor of ornamental trees came in and made their case, and, I think, made a good case for it. To the contrary, we who are concerned about these kinds of taxes and these kinds of assessments, really didn't have an opportunity with LB 75 to come in and specifically address what a city might be interested in doing so. We appear in a neutral position. We applaud Senator Price for coming forward in this limited way and looking for specific authority, and just draw the distinction between that and LB 75, which we think is the wrong to give a city the kind of authority. The constitution provides that the Legislature may vest corporate authorities with the authority to do what you're doing here, and we think that the implication from that constitutional provision is that you do it on a specific basis as opposed to a broad basis like you did in LB 75. Thank you.

SENATOR FRIEND: Thank you, Mr. Ruth. Any questions? Seeing none, thanks for your testimony. Anyone else in a neutral capacity?

KORBY GILBERTSON: Good afternoon, Chairman Senator Friend, and members of the committee. For the record, my name is Korby Gilbertson. That's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today in a neutral capacity on behalf of the Nebraska Realtors Association regarding LB 302. The realtors did not take a position on LB 302, but as Mr. Ruth stated, we saw a direct relationship between this and LB 75, which they opposed and testified at the hearing on that bill. When the realtors looked at this bill compared LB 75, the basic comment was, well, if Senator Beutler really wanted to do trees, well then why didn't he do trees like they did in LB 302? So that was the comment

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that was made, and even though they did not take a position on that, we wanted to let you know that, as Mr. Ruth stated, if you're looking for an authority to do taxation like this, then it should be a specific authority which is set out in LB 302, not something as broad that was provided in LB 75. I am going to have to add one final comment. On a personal note too, I would do anything to pay for trees because I think they're wonderful and I also happen to be lucky enough to across the street from Mr. Schwab, so I...of course, I like trees. Thank you.

SENATOR FRIEND: That's a perk. Any questions for Ms. Gilbertson? Seeing none, thanks for your testimony.

KORBY GILBERTSON: Thank you.

SENATOR FRIEND: Anyone else in a neutral capacity? Senator Price to close on LB 302.

SENATOR PRICE: Thank you, Chairman Friend, members of the committee. I appreciate the testifiers that followed and really carried the ball in this presentation. Are there any questions?

SENATOR FRIEND: Any questions for Senator Price? Seeing none...

SENATOR PRICE: Thank you, thank you.

SENATOR FRIEND: Thank you.

SENATOR PRICE: Have a good afternoon.

SENATOR FRIEND: You, as well. That will close the hearing on LB 302 and the hearings for the day in Urban Affairs. Thanks.